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**Montana State Bar I.D. No. 2406**

**Attorneys for Ernie and Leanne Dutton; Livingston Marble and Granite, Inc.; William and Evelyn Scalise; and Greg and Emily Strong**

**IN THE UNITED STATES BANKRUPTCY COURT**  
**FOR THE DISTRICT OF MONTANA**

<b>In Re:</b>	)	<b>Case No. 06-60855</b>
	)	
<b>INCREDIBLE AUTO SALES, LLC.</b>	)	<b>STIPULATION FOR REJECTION OF</b>
	)	<b>LEASE AND MOTION FOR APPROVAL</b>
	)	
<b>Debtor.</b>	)	
	)	

Debtor, Incredible Auto Sales, LLC, (“Debtor” or “Lessee”), by Chapter 7 Trustee, Joseph V. Womack, and Ernie and Leanne Dutton, Livingston Marble and Granite, Inc, William and Evelyn Scalise, and Greg and Emily Strong, (“Lessors”) by counsel, have entered into the following Stipulation effective April 16, 2007.

**RECITALS**

1. Debtor filed a Petition under Chapter 11 of the Bankruptcy Code on October 17, 2006.
2. Lessors are parties to a commercial lease agreement with Debtor for the premises located at 1832 King Avenue West, Billings, Montana (“Lease”). The premises located at 1832 King Avenue West, Billings, Montana have been used by Debtor for its automobile dealership (“Premises”).

3. On January 4, 2007 the Bankruptcy Court granted Debtor's motion to assume the Lease with Lessors pursuant to 11 U.S.C. §365.

4. On March 20, 2007 the Bankruptcy Court entered an Order approving a Stipulation between Debtor, Lessors and Hyundai Motor Finance Company providing for rent payment, sale of disputed fixtures, and disposition of other property.

5. On April 10, 2007 the Bankruptcy Court entered an Order converting this case from Chapter 11 to Chapter 7 of the Bankruptcy Code. Joseph V. Womack was appointed Trustee of the Bankruptcy Estate.

6. Debtor is no longer occupying or conducting business at the Premises, has sold its dealership franchise, and wishes to reject the Lease.

#### **AGREEMENT**

Debtor/Lessee and Lessors hereby stipulate and agree as follows:

1. The Lease between Debtor/Lessee and Lessors dated March 15, 1996 shall be deemed rejected by Debtor/Lessee upon Bankruptcy Court approval of this Stipulation for Rejection of Lease.

2. Upon Bankruptcy Court approval of this Stipulation for Rejection of Lease, all of Debtor/Lessee's right, title and interest under the Lease shall terminate.

3. Lessors consent to rejection of the Lease, but reserve all rights to file a proof of claim and application for allowance of administrative claim expense related to the Lease and damages related thereto.

4. By this Stipulation, Lessors and Debtor make no determination as to the proper treatment, classification or payment of Lessors' claims for unpaid rent, taxes, utilities or any other obligations under the Lease.

Debtor/Lessee and Lessors respectfully jointly move the Court to approve the terms of this Stipulation.

Dated this 16th day of April, 2007.

Guthals, Hunnes, Reuss & Thompson, P.C.  
P. O. Box 1977  
Billings, MT 59103-1977

By: Jeffery A. Hunnes  
Attorneys for Lessors Ernie and Leanne Dutton;  
Livingston Marble and Granite, Inc.; William and  
Evelyn Scalise and Greg and Emily Strong

Joseph V. Womack  
Joseph V. Womack, Chapter 7 Trustee

\*Counsel for Lessors represents the consent of the Chapter 7 Trustee to this Stipulation.

### NOTICE TO CREDITORS

If you object to the motion, you must file a written responsive pleading and request a hearing within ten (10) days of the date of the motion. The responding party shall schedule the hearing on the motion at least twenty (20) days after the date of the response and request for hearing and shall include in the caption of the responsive pleading the date, time and location of the hearing by inserting in the caption the following:

#### NOTICE OF HEARING

Date: \_\_\_\_\_

Time: \_\_\_\_\_

Location: \_\_\_\_\_

If no objections are timely filed, the Court may grant the relief requested as a failure to respond by any entity which shall be deemed an admission that the relief requested should be granted.

DATED this 16<sup>th</sup> day of April, 2007.

Guthals, Hunnes, Reuss & Thompson, P.C.  
P. O. Box 1977  
Billings, MT 59103-1977

By: Jeffery A. Hunnes  
Jeffery A. Hunnes

**CERTIFICATE OF SERVICE**

**THIS IS TO CERTIFY**, under penalty of perjury, that the foregoing Stipulation for Rejections of Lease and Motion for Approval was filed on April 16, 2007, with the Clerk of the Bankruptcy Court using the CM/ECF system, which will electronically notify all persons listed with the Court.

**Guthals, Hunnes, Reuss & Thompson, P.C.**

By: Jeffery A. Hunnes  
ATTORNEYS FOR CREDITORS ERNIE AND  
LEANNE DUTTON; LIVINGSTON MARBLE  
AND GRANITE, INC.; WILLIAM AND EVELYN  
SCALISE; AND GREG AND EMILY STRONG.